

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BRYAN EDWIN GREEN #01974579

Plaintiff's Name and ID Number

BILL CLEMENTS UNIT, AMARILLO, TEXAS

Place of Confinement

CASE NO. TO BE ASSIGNED

(Clerk will assign the number)

v.

RACHELLE BARLOW, CORRECTIONS OFFICER III

Defendant's Name and Address

HOLLIDAY UNIT
295 IH-45 NORTH
HUNTSVILLE, TEXAS 77320

ROBERT CASTLEBERRY

Defendant's Name and Address

HOLLIDAY UNIT
295 IH-45 NORTH
HUNTSVILLE, TEXAS 77320

Defendant's Name and Address

(DO NOT USE "ET AL.")

United States District Court
Southern District of Texas
FILED

JUN 13 2016

David J. Bradley, Clerk of Court

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked **"NOTICE TO THE COURT OF CHANGE OF ADDRESS"** and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS: (SEE ATTACHED EXHIBIT A)

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ☒ YES ☐ NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: MAY 18, 2015

2. Parties to previous lawsuit:

Plaintiff(s) BRYAN EDWIN GREEN #01974579

Defendant(s) RACHELLE BARLOW AND ROBERT K. CASTLEBERRY

3. Court: (If federal, name the district; if state, name the county.) U.S. DISTRICT COURT -

4. Cause number: 4:15-CV-01353 SOUTHERN DISTRICT OF TEXAS

5. Name of judge to whom case was assigned: JUDGE ALFRED H. BENNETT

6. Disposition: (Was the case dismissed, appealed, still pending?) DISMISSED WITHOUT PREJUDICE

7. Approximate date of disposition: JUNE 4, 2015

II. PLACE OF PRESENT CONFINEMENT: BILL CLEMENTS UNIT OF TDCJ-ID IN
AMARILLO, TEXAS

III. EXHAUSTION OF GRIEVANCE PROCEDURES: (SEE EXHIBIT A)

Have you exhausted all steps of the institutional grievance procedure? ☒ YES ☐ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

STEP 2 GRIEVANCE FORM WAS SENT TO THE COURT WITH AMENDED COMPLAINT

IV. PARTIES TO THIS SUIT: FOR CASE NUMBER 4:15-CV-01353.

A. Name and address of plaintiff: BRYAN EDWIN GREEN # 01974579

BILL CLEMENTS UNIT

9601 SPUR 591

AMARILLO, TEXAS 79107

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: RACHELLE BARLOW, TDCJ-ID CORRECTIONS OFFICER III;
HOLLIDAY UNIT OF TDCJ-ID; 295 IH-45 NORTH, HUNTSVILLE, TX 77320.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #2: ROBERT K. CASTLEBERRY, TDCJ-ID MAJOR OF CORRECTIONS OFFICER;
HOLLIDAY UNIT OF TDCJ-ID; 295 IH-45 NORTH, HUNTSVILLE, TX 77320.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #3: N/A

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

N/A

Defendant #4: N/A

N/A

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: N/A

N/A

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

N/A

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT. (CONTINUED IN EXHIBIT B ATTACHED)

(1) THE PLAINTIFF CLAIMS THAT DEFENDANT CORRECTIONS OFFICER RACHELLE BARLOW VIOLATED THE PLAINTIFF'S EIGHTH AMENDMENT RIGHTS UNDER THE UNITED STATES CONSTITUTION WHEN, ON THE MORNING OF APRIL 6, 2015 AT APPROXIMATELY 5:50 AM AT THE INFIRMARY OF THE HOLIDAY UNIT OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE IN HUNTSVILLE, TEXAS, SHE USED EXCESSIVE, NON-PROVOKED, AND UNNECESSARY FORCE AGAINST THE PLAINTIFF IN A MALICIOUS AND SADISTIC MANNER THAT WAS MEANT SPECIFICALLY TO CAUSE HARM AND WAS NOT NECESSARY TO KEEP ORDER. MS. BARLOW INCORRECTLY CLAIMED THAT THE PLAINTIFF HAD GIVEN HER INCORRECT HOUSING INFORMATION FOR HER HEADCUNT AND, IN RETALIATION, SHE FORCEFULLY SHOVEED THE PLAINTIFF

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes. THE PLAINTIFF RESPECTFULLY PRAYS THAT THIS COURT ENTER JUDGMENT:

(1) GRANTING THE PLAINTIFF COMPESATORY DAMAGES IN THE AMOUNT OF \$50,000 AGAINST EACH DEFENDANT, JOINTLY AND SEVERALLY.

(2) GRANTING THE PLAINTIFF PUNITIVE DAMAGES IN THE AMOUNT OF \$50,000.

(3) ANY ADDITIONAL RELIEF THIS COURT DEEMS JUST, PROPER AND EQUITABLE.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

I HAVE ONLY USED THE NAME BRYAN EDWIN GREEN. I HAVE NO ALIASES.

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

TDCJ-CID IDENTIFICATION NUMBER 01974579.

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☐ NO ☒

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.) NOT APPLICABLE

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

EXHIBIT A

I. PREVIOUS LAWSUITS (CONTINUED):

B.

1. APPROXIMATE DATE OF FILING LAWSUIT: JULY 1, 2015
2. PARTIES TO PREVIOUS LAWSUIT:
PLAINTIFF(S) BRYAN EDWIN GREEN #01974579
DEFENDANT(S) RACHELLE BARLOW;
ROBERT K. CASTLEBERRY; AND
TEXAS DEPARTMENT OF CRIMINAL JUSTICE
3. COURT: TEXAS 12TH JUDICIAL DISTRICT, WALKER
COUNTY, TEXAS
4. CAUSE NUMBER: 1527478
5. NAME OF JUDGE TO WHOM CASE WAS ASSIGNED:
JUDGE DONALD KRAEMER
6. DISPOSITION: DISMISSED ON FINAL JUDGMENT -
AS FRIVOLOUS AND NOW UNDER APPEAL.
7. APPROXIMATE DATE OF DISPOSITION: OCTOBER 15, 2015

B.

1. APPROXIMATE DATE OF FILING LAWSUIT: NOVEMBER 9, 2015
2. PARTIES TO APPEAL:
APPELLANT(S): BRYAN EDWIN GREEN #01974579
APPELLEE(S): RACHELLE BARLOW;
ROBERT K. CASTLEBERRY; AND
TEXAS DEPARTMENT OF CRIMINAL JUSTICE

I. PREVIOUS LAWSUITS (CONTINUED):

B.

3. COURT: COURT OF APPEALS FOR THE 10TH SUPREME
JUDICIAL DISTRICT

4. CAUSE NUMBER: 10-15-00387-CV

5. NAME OF JUDGE TO WHOM CASE WAS ASSIGNED:
VARIOUS

6. DISPOSITION: STILL PENDING

7. APPROXIMATE DATE OF DISPOSITION: NOT APPLICABLE

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

THE PLAINTIFF FILED A STEP 1 GRIEVANCE ON APRIL 7, 2015, AND RECEIVED THE RELATED WRITTEN DECISION ON MAY 12, 2015. THEN PLAINTIFF THEN FILED THE ASSOCIATED STEP 2 GRIEVANCE ON MAY 29, 2015, AND RECEIVED THE WRITTEN DECISION ON MAY 29, 2015. I SENT THE ACTUAL WRITTEN DECISION INTO THIS COURT WITH MY AMENDED FILING OF MY ORIGINAL COMPLAINT (CASE NUMBER 4:15-CV-01353) ON JUNE 10, 2015. THE ACTUAL STEP 2 DECISION IS STILL IN THE POSSESSION OF THE COURT.

STATEMENT OF CLAIM (CONTINUED) —

THREE TIMES WITH HER BODY (ONCE) AND ARMS (TWICE), PUSHING THE PLAINTIFF BACK ON HIS INJURED ANKLE (A PRE-EXISTING, WORK-RELATED INJURY) AND, THUS, EXACERBATED THE ANKLE INJURY WHICH RESULTED IN SEVERE SWELLING FOR A PERIOD OF SIX DAYS.

THERE WERE APPROXIMATELY TWENTY OTHER INMATES WHO WERE ALSO PRESENT IN THE HOLLIDAY UNIT INFIRMARY HOLDING CELL AT THIS TIME WHO WITNESSED THE INCIDENT. THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE HAS THE COMPLETE LIST OF THE NAMES OF THESE INMATES SINCE THEY INVESTIGATED THIS INCIDENT BASED UPON MY GRIEVANCE FILING. MOREOVER, I HAVE COME TO UNDERSTAND, UPON INFORMATION AND BELIEF, THAT EIGHT OF THE INMATES WHO WITNESSED THE INCIDENT ALSO FILED GRIEVANCES ON CORRECTIONS OFFICER BARLOW ON THIS MATTER WITH THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE.

(2) THE PLAINTIFF CLAIMS THAT DEFENDANT MAJOR ROBERT CASTLEBERRY VIOLATED HIS RIGHTS UNDER THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION WHEN, ON THE AFTERNOON OF APRIL 27, 2015 AT THE INFORMATION DESK OF THE HOLLIDAY UNIT, THE MAJOR VERBALLY THREATENED THE PLAINTIFF WITH PHYSICAL

EXHIBIT B

STATEMENT OF CLAIM (CONTINUED) -

VIOLENCE FOR EXERCISE OF THE PLAINTIFF'S RIGHT TO SEEK REDRESS FROM THE PRISON THROUGH USE OF THE PRISON GRIEVANCE SYSTEM. MAJOR CASTLEBERRY INITIALLY INQUIRED ABOUT THE PLAINTIFF'S CHEST INJURIES AS A RESULT OF THE EXCESSIVE FORCE INCIDENT OF APRIL 6, 2015. WHEN THE PLAINTIFF REPLIED THAT THE INJURIES WERE TO HIS ANKLE, DEFENDANT CASTLEBERRY VERBALLY THREATENED THE PLAINTIFF WITH RETALIATION BY STATING THAT "THE NEXT TIME I WILL MAKE SURE THAT WE LEAVE BIGGER BRUISES ON YOUR CHEST."

(3) EACH DEFENDANT IS SUED INDIVIDUALLY AND IN HIS/HER OFFICIAL CAPACITY. AT ALL TIMES MENTIONED IN THIS COMPLAINT EACH DEFENDANT ACTED UNDER THE COLOR OF STATE LAW.

(4) THIS COURT HAS JURISDICTION OVER THIS MATTER SINCE BOTH THE INCIDENTS IN THE CLAIMS ABOVE OCCURRED IN WALKER COUNTY, TEXAS; BOTH CLAIMS ENTAIL ALLEGED VIOLATIONS OF THE PLAINTIFFS' RIGHTS UNDER THE UNITED STATES CONSTITUTION; AND THE DEFENDANTS IN BOTH INCIDENTS ACTED UNDER THE COLOR OF STATE LAW.

BRAD GRASS # 1974529
BILL CEMENTS UNIT
9601 SPUR 591
AMARILLO, TX 79107

United States District Court
Southern District of Texas
FILED
JUN 13 2016

David J. Bradley, Clerk of Court

LEGAL MAIL

MR. DAVID BRADLEY
CLERK OF COURT
P.O. BOX 61010
HOUSTON, TX 77208

7720831010 E001

